

NOTICE OF SETTLEMENT OF CLASS ACTION LAWSUIT

Adriana Ortega v. The Spearmint Rhino Companies Worldwide, Inc., et al.

Case No. 5:17-CV-00206 JGB (KKx)

United States District Court for the Central District of California

TO: Entertainers who performed as “LLC Members” or “independent contractors” at Spearmint Rhino-affiliated clubs in California from October 30, 2017 to January 22, 2020.

If you performed as an “LLC Member” or “independent contractor” at any Spearmint Rhino-affiliated club in California from October 30, 2017 to January 22, 2020, or if you worked for a Spearmint Rhino-affiliated club in California and excluded yourself from a previous settlement known as “Byrne,” your rights are affected by this Settlement. **You must timely complete, sign and return the enclosed Claim Form and IRS W-9 Form to Kurtzman Carson Consultants, LLC (KCC, LLC), the Settlement Administrator, on or before June 3, 2020 if you wish to receive a portion of the Settlement funds in this case.** You may have heard of a similar lawsuit and settlement referred to as the “Byrne case.” The Ortega settlement described in this Notice is separate and arises from a different lawsuit.

Additional options and instructions are described below.

I. DESCRIPTION OF THE ACTION

The Plaintiffs contend that exotic dancers performing for customers at the adult clubs in California affiliated with the Spearmint Rhino entity should have been treated as employees of the clubs, rather than as “LLC Members” or “independent contractors” and as a result were entitled to but did not receive full payment of wages due under California and federal law. Defendants in the Action dispute and deny any and all claims asserted in the Action. Defendants deny that they engaged in any wrongdoing, and deny that they are liable to the Class Members in any way.

The United States District Court for the Central District of California has *not* ruled on the merits of Plaintiffs’ claims.

II. PRELIMINARY APPROVAL

On January 22, 2020, the United States District Court for the Central District of California granted preliminary approval of the proposed Settlement of this Action. The following Settlement Class has been certified: All individuals who performed as entertainers and in conjunction therewith have provided nude, semi-nude, and/or bikini entertainment for customers from October 30, 2017 through the date of entry of the Preliminary Approval Order as “LLC Members” during any portion of the foregoing time period at the Clubs.

The Class also includes those individuals who opted out and excluded themselves from a previous lawsuit against the clubs known as *Byrne v. Santa Barbara Hospitality, Inc., et al.*, Case No. 5:17-CV-00527 JGB (KKx).

According to the Clubs’ records, you fall within one or both of the categories.

III. SUMMARY OF THE SETTLEMENT AGREEMENT

The Settlement provides for a Gross Cash Settlement Amount of **\$3,650,000**.

Of the Gross Cash Settlement Amount, the Settlement proposes to pay \$912,500, or 25% of the fund, to the attorneys for their work on the case. The attorneys will also request an additional amount of actual out-of-pocket litigation expenses. The Settlement also proposes to pay a total of \$10,000 in “service payments” to the four named originating Plaintiffs who brought this Action, composed of four payments in the amount of \$2,500. The Settlement also proposes to pay \$100,000 for settlement of claims under the California Private Attorneys General Act (“PAGA”), 75% of which will be paid to the State of California.

Assuming the Court approves the final PAGA payment, service payments, and attorneys’ fees and costs, the remaining funds in the Gross Cash Settlement Amount will be paid to Class Members who submit a valid Claim Form to participate in this Settlement, based on the number of days that they worked during the Class Period of October 30, 2017 to January 22, 2020 (in proportion to the days worked by all claiming Class Members).

The Settlement will be paid out to Class Members in four payments. The Parties estimate that the first payment will be in 2020, and the additional payments will be in 2021, 2022, and 2023.

IV. RELEASE

All Class Members who do not exclude themselves from the Settlement pursuant to Section VII below will be bound by a full and complete release of their claims against Defendants pursuant to the California Labor Code, IWC Wage Orders, and any related claims for overtime pay, misclassification, minimum wages, missed or inadequate meal periods and rest breaks, unpaid tip income, reimbursement for uniform costs, itemized wage statement violations, record-keeping violations, and waiting-time penalties.

All Class Members who submit valid Claim Forms shall also be deemed to have opted in to the FLSA “Fair Labor Standards Act” Settlement Class and shall be deemed to have released all claims relating to or arising under the FLSA.

The summary of the terms of the release can be read in full and is entirely qualified by the complete text of the release set forth in the Settlement Agreement, which can be found at www.CAExoticDancerFLSAsettlement.com.

V. TO RECEIVE MONEY AND CLAIM YOUR SHARE OF THE SETTLEMENT

If you want to claim your share of the Settlement, you must complete and mail or email the Claim Form and IRS Form W-9 (which are enclosed with this Class Notice) to the Settlement Administrator at the address listed below.

YOUR CLAIM MUST BE POSTMARKED ON OR BEFORE June 3, 2020, which is 90 days after the date of the initial mailing of this Notice.

If you submit the Claim Form and IRS W-9 Form, or if you do not exclude yourself from the Settlement, you will be bound by all the terms of the Settlement, including a full release of claims that will prevent you from suing Defendants, their employees, officers, directors, parent companies, or any other related persons or entities for the matters being settled in this Action.

If you submit the Claim Form and IRS W-9 form, you will be opting in to the Federal Labor Standards Act claims and the release of those claims.

VI. OBJECTING TO THE SETTLEMENT

If you believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement by filing a written objection with the United States District Court for the Central District of California and mailing a copy of your objection to Class Counsel at the address listed below. Any objections must be filed and received on or before June 3, 2020. If the Court approves the Settlement over your objection, you will be bound by a release of all wage-related claims that were asserted or could have been asserted in this lawsuit, and you will receive payment under the Settlement only if you have also submitted a valid Claim Form and IRS Form W-9.

VII. EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a request for exclusion.

If you wish to exclude yourself or “opt out,” you must mail to the Settlement Administrator a signed request for exclusion from the Settlement Classes, postmarked no later than June 3, 2020. In order to be valid, the request to opt out must clearly reference the *Ortega* matter, state unequivocally that the individual wishes to “opt out” or exclude himself or herself from the Settlement, and be signed by the Class Member.

If you submit a complete and timely request for exclusion, you shall no longer be a Member of the Settlement Classes, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. You will retain whatever rights or claims you may have, if any, against Defendants or related persons or entities, and you will be free to pursue them on an individual basis, if you choose to do so.

VIII. TAXES

The Settlement Administrator will issue an IRS Form 1099 to each recipient of any monies paid from the Gross or Net Settlement Amount pursuant to this Settlement. You will be obligated to obtain your own tax advice concerning the proper reporting and tax consequences of any payments received under this Settlement Agreement, and you shall assume the responsibility of remitting to the Internal Revenue Service and any other relevant taxing authority any amounts required by law for any monies paid under this Agreement without any further contribution from any of the Defendants or Clubs.

IX. FINAL HEARING ON PROPOSED SETTLEMENT

The Final Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, the service awards to the named class representatives, and Class Counsel’s request for attorneys’ fees and costs will be held on June 15, 2020 at 9:00 a.m., in Courtroom 1 of the United States District Court, Central District of California, located at 3470 Twelfth Street, Riverside, CA 92501-3000.

You have the right to appear at the Final Hearing, either through an attorney of your own choosing at your own expense, or without an attorney.

X. ADDITIONAL INFORMATION

This Class Notice only summarizes the Action and the Settlement. For more information, you may:

- (a) Examine the full Settlement Agreement, the Notice and the Claim Form maintained online at www.CAExoticDancerFLSAsettlement.com;
- (b) Contact the Settlement Administrator at the address, telephone number or email noted above;
- (c) Inspect the Court files at the United States District Court, Central District of California, located at 3470 Twelfth Street, Room 134, Riverside, CA 92501-3000, from 10:00 a.m. to 4:00 p.m. Monday through Friday, or log on to PACER at <https://ecf.cacd.uscourts.gov/cgi-bin/login.pl> using the case name and number listed on page 1 of this Notice to examine the pleadings in this action for minimal cost;
- (d) Contact Class Counsel at:
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PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS CLASS NOTICE